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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/786,547 03/02/01 DE LATHOUWER

R COL202

EXAMINER

QM12/0905

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WARREN NJ 07059-5832

MAIL T

ART UNIT

PAPER NUMBER

3727
DATE MAILED:

09/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/786,547

Applicant(s)

DE LATHOUWER, ROGER

Examiner

Tri M. Mai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plate in claim 15, the central part in claim 18, and the stacking of five suitcases in claim 25 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "aforesaid" should be changed to --said--.

In claim 1, the recitation "front face able to be opened or provided with an opening" is confusing. The front face of the luggage has an opening covered by a flap or a panel. The flap or panel can be opened by a closing means. It is unclear what is intended by the recitation.

In claim 1, it is unclear what element is defined by "a plate".

In claim 1, the recitation "molded piece... incurvated form" is confusing.

Claims 16-25 are dependent on the canceled claim 1.

Regarding claim 18, it is unclear what is referred by "a central part".

Regarding claim 25, it is unclear whether the suitcases are meant to be stacked against each other. The disclosure shows the suitcases are nested in one another.

Regarding claim 22, a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. In the present instance, claim 22 recites the broad recitation 10%-50%, and the claim also recites 15%-40%, which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15, 16, and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Himbeeck. Van Himbeeck teaches a suitcase having two tubes at portions 128 and 160, an opening, and a molded portion having two curved plates 32 and 34. Van Himbeeck teaches retaining rings 166 as shown in Fig. 11.

Regarding claim 21, at least the edge of the front portion is not supported by the upper portion of the suitcase as claimed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 15, 16, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of either Kish, Jr. or Kotkins. Lin teaches a suitcase having two tubes at portions 72 and 74, an opening, and a molded portion having two curved plates 20 and 22. Lin meets all claimed limitations except for the retaining elastic rings. Either Kish, Jr. or Kotkins teaches that it is known in the art to provide retaining elastic rings 92 and 35 respectively. It would have been obvious to one of ordinary skill in the art to provide retaining rings in Lin as taught by either Kish, Jr. or Kotkins to keep the panels together.

8. Claims 15-18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (DE19525571) in view of either Kish, Jr. or Kotkins. Myers teaches a suitcase having two tubes 108, an opening, and a molded portion having two curved plates 80'. Myers meets all claimed limitations except for the retaining elastic rings. Either Kish, Jr. or Kotkins teaches that it is known in the art to provide retaining elastic rings 92 and 35 respectively. It would have been obvious to one of ordinary skill in the art to provide retaining rings in Myers as taught by either Kish, Jr. or Kotkins to keep the panels together.

Regarding claim 21, portions 98 and 72 are the upper and lower portions as claimed, and portion 98 does not support at least a front part of the upper face of the suitcase.

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Himbeeck in view of King. Van Himbeeck meets all claimed limitations except for the parts are attached by rivets. King teaches that it is known in the art to attach parts of a luggage by rivets. It would have been obvious to one of ordinary skill in the art to attach parts of a luggage by rivets in Van Himbeeck as taught by King to fasten the parts easily.

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10. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers in view of Dresner (2,362,807). Van Himbeeck meets all claimed limitations except for the two suitcases being disposed in one another. Dresner teaches that it is known in the art to provide two suitcases that are disposed in one another. It would have been obvious to one of ordinary skill in the art to provide two suitcases in Van Himbeeck as taught by Dresner to carry them easily.

11. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers in view of Thompson et al. (4,813,342). Van Himbeeck meets all claimed limitations except for the stacking of at least 5 suitcases. Thompson teaches that it is known in the art to provide a plurality of suitcases that are stacked together. It would have been obvious to one of ordinary skill in the art to provide at least 5 suitcases in Van Himbeeck as taught by Dresner to carry them easily.

Conclusion

12. In view of the 112 matters and objections as set forth above, the allowability of claim 22 can not be determined at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703)308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

t.m. *TM*
July 31, 2001

Shoap
Allan N. Shoap
Supervisory Patent Examiner
Group 3700